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Building a Presumptive Illness Benefit That Works for Montana

Effective presumptive illness (PI) legislation protects firefighters while controlling associated costs. PI laws can be drafted restrictively or expansively based upon the following factors:

Benefits

PI legislation can dictate the amount and duration of compensation received.

Covered Diseases

The following diseases are scientifically linked to on-the-job firefighter hazards. Most states cover some, but not all of the following:

- Heart disease (including exertion-related heart attacks)
- Lung disease
- Cancer (various types)
- Infectious diseases (various types)

Covered Professions

States have limited PI legislation to paid municipal firefighters, or extended it to other groups:

- Wildland firefighters
- Volunteer firefighters
- Other public servants

Time Limitations

Nearly all PI legislation limits the timeframe of eligibility for the presumption:

- Minimum employment requirement (e.g. 10 years before presumption applies)
- Post-employment restriction (e.g. claims must be filed within 2 years of retirement)

Disqualifying Factors

Certain high-risk conduct may automatically disqualify a person from the presumption.

- Most commonly habitual tobacco use

Rebuttal Standard

PI legislation establishes how easy it is for the insurer to “rebut” the presumption – to show that the disease was incurred outside the course and scope of employment:

- By a preponderance of the evidence (more likely than not)
- By clear and convincing evidence (a higher standard)
- Some other legal standard